

**Commonwealth Edison Company**

**Proposed general increase in electric  
rates**

**:**  
**:**  
**:** ICC Docket No. 10-0467  
**:**  
**:**

# **ATTACHMENT A REPLACEMENT LANGUAGE**

**OF THE COALITION TO  
REQUEST EQUITABLE ALLOCATION OF COSTS TOGETHER**

## **REACT**

**COMPRISED OF:**

**A. FINKL & SONS, Co.  
AUX SABLE LIQUID PRODUCTS, LP  
THE CITY OF CHICAGO  
COMMERCE ENERGY, INC.  
FLINT HILLS RESOURCES, LP  
FUTUREMARK PAPER COMPANY  
INTEGRYS ENERGY SERVICES, INC.  
INTERSTATE GAS SUPPLY OF ILLINOIS, INC.  
THE METROPOLITAN WATER RECLAMATION DISTRICT  
OF GREATER CHICAGO  
PDV MIDWEST REFINING LLC  
UNITED AIRLINES, INC.  
WELLS MANUFACTURING, INC.**



**STATE OF ILLINOIS**

**ILLINOIS COMMERCE COMMISSION**

**Commonwealth Edison Company** :  
: **10-0467**  
**Proposed general increase in electric rates.** :

**REACT'S REPLACEMENT LANGUAGE FOR  
ADMINISTRATIVE LAW JUDGES' PROPOSED ORDER**

**April 11, 2011**



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By the Commission:

**PROCEDURAL HISTORY**

\*\*\*

The following witnesses testified on behalf of REACT: Bradley O. Fults (REACT Ex. 1.0, REACT Ex. 4.0); Jeffrey Merola (REACT Ex. 2.0, REACT Ex. 5.0); and Harry L. Terhune (REACT Ex. 3.0, REACT Ex. 6.0).

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**TESTIMONY, MOTIONS, AND RULINGS**

On June 30, 2010, ComEd filed its direct testimony with its Part 285 Filing.

On July 28, 2010, the Commission entered its Suspension Order.

On August 9, 2010, ComEd filed a Motion for Leave to File Supplemental Direct Testimony in order to satisfy all directives the Commission made during its rate design investigation, Docket No. 08-0532. A number of the directives could not be met in the initial filing due to time constraints.

On August 13, 2010, ComEd filed a Motion for Entry of Protective Order to govern the treatment of certain confidential and proprietary information and materials.

Also on August 23, 2010, Staff filed its Response to ComEd's Motion for Entry of a Protective Order.

On August 26, 2010, CUB, the AG, and AARP jointly filed a Motion to Strike ComEd's direct testimony of Mr. Hewings in its entirety and portions of the direct testimony of Mr. Andrade, on the grounds that the testimony was irrelevant and created an undue burden on other parties to the proceeding.



Also on August 26, 2010, the AG and Dominion, jointly, and REACT, separately, filed responses to ComEd's Motion for Leave to File Supplemental Direct Testimony. The filings also included a Motion to Dismiss ComEd's rate case, alleging that the initial filing failed to comply with the Commission's order in Docket 08-0532.

Also on August 26, 2010, the AG and CUB each filed a Response to ComEd's Motion for Entry of a Protective Order.

On September 3, 2010, ComEd filed its Reply in Support of Its Motion for Entry of a Protective Order.

On September 9, 2010, ComEd filed its Response to the Motion to Strike by CUB, the AG, and AARP.

Also on September 9, 2010, ComEd filed its Combined Reply in Support of its Motion for Leave to File Supplemental Direct Testimony and its Response to the AG and Dominion's and REACT's Motions to Dismiss.

Also on September 9, 2010, Staff filed its Response to CUB's Motion to Strike.

Also on September 9, 2010, Metra filed its Response in Support for the AG and Dominion's Motion to Dismiss.

Also on September 9, 2010, CUB filed its Response to the AG and Dominion's and REACT's Motions to Dismiss.

On September 13, 2010, REACT filed its Reply in Support of its Motion to Dismiss.

Also on September 13, 2010, CUB, the AG, and AARP jointly filed their Reply in Support of their Motion to Strike.

On September 14, 2010, the AG and Dominion filed their Reply to ComEd's Combined Reply in Support of Motion for Leave to File Supplemental Direct Testimony and Response to Motions to Dismiss.

On September 17, 2010, the ALJs granted the Motion to Strike filed by CUB, the AG, and the AARP.

Also on September 17, 2010, the ALJs granted ComEd's Motion for Leave to File Supplemental Direct Testimony and denied the AG and Dominion's and REACT's Motions to Dismiss. The ALJs found that though it did not appreciate the supplemental filing, the rate case was in the sufficiently early stages to allow the parties adequate time to process this information.

On September 21, 2010, the ALJs issued a ruling regarding the Protective Order, including language that was proffered by the AG and Staff, but declined to add the language proffered by CUB.

On October 8, 2010, REACT filed a Verified Petition for Interlocutory Review by the Commission of the ALJs' September 17, 2010 ruling regarding ComEd's Motion for Leave to File Supplemental Direct Testimony and REACT's Motion to Dismiss.



On October 13, 2010, the AG, AARP, CUB and the CTA jointly filed a Motion to Consolidate the pending rate case, Docket No. 10-0467, and ComEd's petition for alternative rate regulation, Docket No. 10-0527.

On October 15, 2010, ComEd filed its Response to REACT's Petition for Interlocutory Review.

On October 19, 2010, ComEd, Staff, and Metra each filed a Response to the AG, AARP, CUB and the CTA's Motion to Consolidate. Metra's Response was in support of the Motion to Consolidate.

On October 21, 2010, REACT filed its Motion to Strike Certain Portions of ComEd's Response to REACT's Petition for Interlocutory Review. REACT argued that ComEd had alleged new facts and arguments that ComEd had not made during the ALJs' consideration of the Motion to Dismiss.

On October 22, 2010, the AG, AARP, CUB, the CTA, and Metra jointly filed their Reply in Support of the Motion to Consolidate.

Also on October 22, 2010, ComEd filed its Response to REACT's Motion to Strike Certain Portions of ComEd's Response to REACT's Petition for Interlocutory Review.

October 25, 2010, REACT filed its Reply in Support of its Motion to Strike Certain Portions of ComEd's Response to REACT's Petition for Interlocutory Review.

On October 26, 2010, Staff, the AG, AG-CUB, CUB, Dominion, IIEC, ICEA, and RESA filed their respective direct testimony related to issues other than rate design.

On October 28, 2010, the ALJs denied the Motion by AG, AARP, CUB, and CTA to consolidate Dockets 10-0467 and 10-0527, which involved separate legal and factual issues. The ALJs held that combining the rate case and alternative regulation case could prejudice the parties and create unnecessary confusion.

On November 4, 2010, the Commission denied REACT's Petition for Interlocutory Review. **During the discussion of REACT's Petition, three Commissioners admonished ComEd to comply with unappealed, clear directives from Commission Orders. (See Minutes of November 4, 2010 Bench Session at 13:5-17:3.)**

On November 5, 2010, the AG sent a letter to ComEd challenging the designation of certain information relating to the costs of consultants, experts, and outside counsel used in litigating the rate case.

On November 12, 2010, ComEd filed a Motion to Preserve the Confidentiality Designations of Certain Documents, specifically referring to the documents named in the AG's letter dated November 5, 2010.

Also on November 12, 2010, ComEd filed its Motion Directed to the Direct Testimony of Roger D. Colton, asking that the Commission reconsider and admit the testimony of Mr. Hewings, which had been struck from the record on September 17, 2010, as a rebuttal to the testimony of Mr. Colton. Alternatively, ComEd asked that the



Commission strike certain portions of Mr. Colton's testimony as unrelated to the rate case.

On November 19, 2010, Staff, AG-CUB, CG, CTA-Metra, the City, DOE, Dominion, IIEC, Kroger, Metra, NRDC, and REACT filed their respective direct testimony related to rate design issues.

Also on November 19, 2010, the AG and CUB filed their Response in Opposition to ComEd's Motion to Preserve the Confidential Designation of Certain Documents.

On November 22, 2010, ComEd filed its rebuttal testimony related to issues other than rate design.

On November 23, 2010, Staff filed a Motion to Remove the Confidential Designation from Staff's Direct Testimony of Bonita A. Pearce. Also on November 23, 2010, the ALJs granted the Motion.

On November 24, 2010, ComEd filed its Reply in Support of its Motion to Preserve the Confidential Designation of Certain Documents.

Also on November 24, 2010, REACT filed its Motion to Compel ComEd's Responses to Certain of REACT's Second, Third, Fourth, and Fifth Sets of Data Requests, which pertained to actual costs incurred to provide service to ComEd's Extra Large Load customer class and to provide supply-related customer care service.

On November 29, 2010, the AG filed its Response to ComEd's Motion Directed to the Direct Testimony of Roger D. Colton.

On December 1, 2010, ComEd filed its Reply in Support of its Motion Directed to the Direct Testimony of Roger D. Colton.

On December 3, 2010, ComEd filed its Response to REACT's Motion to Compel.

On December 6, 2010, REACT filed an Application for Rehearing of the November 4, 2010 order entered by the Commission regarding REACT's Petition for Interlocutory Review of the ALJs' September 17, 2010 order.

On December 7, 2010, REACT filed its Reply in Support of Its Motion to Compel.

On December 8, 2010, ComEd filed its rebuttal testimony related to rate design issues.

On December 9, 2010, ComEd filed a Motion to Strike REACT's Application for Rehearing as barred by Commission rules.

On December 10, 2010, the ALJs issued a ruling regarding ComEd's Motion Directed to the Direct Testimony of Roger D. Colton. The ALJs granted the Motion to strike certain portions of Mr. Colton's testimony, but denied all other relief requested. The ALJs also denied ComEd's Motion to Preserve the Confidential Designation of Certain Documents and denied REACT's Motion to Compel.

Also on December 10, 2010, REACT filed its Response to ComEd's Motion to Strike REACT's Application for Rehearing.

On December 14, 2010, ComEd filed its Reply Supporting its Motion to Strike REACT's Application for Rehearing.



On December 16, 2010, AG filed a Motion for Leave to File Revised Testimony of Mr. Colton pursuant to the ALJs' ruling of December 10, 2010.

On December 21, 2010, the Commission in conference denied REACT's Application for Rehearing.

On December 22, 2010, the ALJs granted the AG's Motion for Leave to File the Amended Testimony of Mr. Colton.

Also on December 22, 2010, ComEd filed a Motion to Strike the Revised Direct Testimony of Mr. Colton, asserting that the revised testimony merely contained the stricken testimony in red, strike-through format, and should be entirely removed.

On December 23, 2010, the AG filed a Petition for Interlocutory Review to reverse the ALJs' December 10, 2010 decision to strike portions of Mr. Colton's direct testimony.

On December 23, 2010, Staff, the AG, AG-CUB, Dominion, ICEA, IIEC, and RESA filed their respective rebuttal testimony related to issues other than rate design.

On December 27, 2010, ComEd filed a Motion to Strike Rebuttal Testimony of Roger D. Colton, arguing that in many instances, the rebuttal testimony contained the identical language that the ALJs ordered stricken on December 10, 2010.

**On December 27, 2010, REACT filed the Corrected Direct Testimony of Bradley O. Fults and Harry L. Terhune, plus corrected Exhibits 2.4C and 2.5C.**

On December 29, 2010, REACT filed a Combined Motion for the following: (1) reconsideration of the ALJs' December 10, 2010 ruling denying REACT's Motion to Compel the response to certain data requests regarding cost causation; (2) an immediate stay of 21 days while seeking interlocutory review of the December 10, 2010 ruling; and (3) an ALJs ruling compelling ComEd to provide responses to other data requests related to cost causation.

On December 30, 2010, Staff, Kroger, AG-CUB, the City, CG, CTA-Metra, DOE, IIEC, NRDC, and REACT filed their respective rebuttal testimony related to rate design issues.

Also on December 30, 2010, ComEd filed its Response to the AG's Petition for Interlocutory Review to Reverse the ALJs' Ruling to Strike the Testimony of Mr. Colton.

Also on December 30, 2010, the AG filed its Response to ComEd's Motion to Strike the Revised Direct Testimony of Mr. Colton.

On January 3, 2010, ComEd filed its surrebuttal testimony related to issues other than rate design.

Also on January 3, 2011, REACT filed a Petition for Interlocutory Review of the ALJs' December 10, 2010 ruling denying REACT's Motion to Compel the response to certain data requests regarding cost causation.

Also on January 3, 2011, the ALJs issued a ruling addressing REACT's Motion to Compel. The ruling held that ComEd should provide a response as to why it does not have the records regarding the installation of customers in the Very Large Customer



class or an affidavit stating that ComEd has provided REACT with the records regarding these installations.

On January 4, 2011, CUB filed a Motion to Compel Withdrawal of ComEd's rebuttal testimony of Messrs. Hewings and Andrade on the grounds that the testimony was submitted in violation of the ALJs' rulings dated September 17, 2010 and December 10, 2010.

On January 5, 2010, ComEd filed its surrebuttal testimony related to rate design issues.

Also on January 5, 2010, the Commission in conference granted **REACT's the AG's** Petition for Interlocutory Review to reverse the ALJs' Ruling to Strike Testimony of Mr. Colton that was filed on December 23, 2010, except as to testimony regarding ComEd's alternative regulation proceeding. With respect to the latter category of evidence, the Commission declined to reverse the ALJs.

Also on January 5, 2011, IIEC filed a Motion to Strike ComEd's surrebuttal testimony of Mr. Hadaway.

Also on January 5, 2011, Staff filed a Motion to Strike certain portions of ComEd's rebuttal testimony of Ms. Houtsma.

Also on January 5, 2011, ComEd filed its Response to REACT's Combined Motion for Reconsideration, Motion for Stay of Time, and Motion to Compel.

On January 6, 2011, ComEd filed its Response to CUB's Motion to Compel Withdrawal of Testimony.

Also on January 6, 2011, ComEd filed its Response to IIEC's Motion to Strike ComEd's surrebuttal testimony of Mr. Hadaway.

Also on January 6, 2011, ComEd filed its Response to Staff's Motion to Strike certain portions of ComEd's rebuttal testimony of Ms. Houtsma.

Also on January 6, 2011, the AG filed a Motion to Strike certain portions of ComEd's rebuttal testimony of Mr. O'Connor.

On January 7, 2011, ComEd, Staff, the AG, BOMA, CG, CTA, CUB, Dominion, DOE, EL, Metra, ICEA, IIEC, Kroger, NRDC, REACT, and RESA each filed their respective pre-hearing memorandum.

Also on January 7, 2011, REACT filed its Reply in support of its Combined Motion for Reconsideration, Motion for Stay of Time, and Motion to Compel.

Also on January 7, 2011, Staff filed its Reply to ComEd's Response to Staff's Motion to Strike certain portions of ComEd's rebuttal testimony of Ms. Houtsma.

Also on January 7, 2011, the ALJs granted Staff's Motion to Strike certain portions of ComEd's rebuttal testimony of Ms. Houtsma. Also, REACT's Motion to Compel was granted in part, such that ComEd must turn over certain cost causation records.

On January 10, 2011, the ALJs denied IIEC's Motion to Strike ComEd's surrebuttal testimony of Mr. Hadaway.



Also on January 10, 2011, ComEd filed its Response to REACT's Petition for Interlocutory Review of the December 10, 2010 Ruling.

On January 11, 2011, the City filed its Pre-Trial Memorandum.

On January 13, 2011, ComEd filed Petition for Interlocutory Review of the ALJs' January 7, 2011 ruling striking certain portions of ComEd's surrebuttal testimony of Ms. Houtsma.

On January 24, 2011, the Commission denied REACT's Petition for interlocutory review of the ALJs' December 10, 2010 ruling.

On January 25, 2011, ComEd withdrew its Petition for Interlocutory Review of the ALJs' January 7, 2011 ruling.

Initial Briefs were filed on February 10, 2011, by ComEd, Staff, AARP, the AG, the City, CG, CUB, CTA, DOE, Dominion, ELPC, ICEA, IIEC, Kroger, NRDC, REACT, and RESA. Reply Briefs were filed on February 23, 2011, by ComEd, Staff, the AG, the City, CG, CUB, CTA, Dominion, ELPC, IIEC, NRDC and REACT.

The ALJs Proposed Order was served on April 1, 2011.

## LEGAL STANDARDS

The central legal principles governing this case are clear and longstanding. As in all contested ratemaking proceedings, the Commission's order must be within its jurisdiction and authority, must be lawful, and must be based exclusively on the evidence in the record. *E.g.*, 220 ILCS 5/10-103, 10-201(e)(iv); *Bus. & Prof. People for the Pub. Interest v. Ill. C. C.*, 136 Ill. 2d 192, 201, 227 (1989).

The Illinois Public Utilities Act (the "Act") requires that: "Charges for delivery services shall be cost based, and shall allow the electric utility to recover the costs of providing delivery services through its charges to its delivery service customers that use the facilities and services associated with such costs." 220 ILCS 5/16-108(c). Allowing a utility to recover fully through rates its costs of providing Illinois-jurisdictional delivery services is a right established not only by Section 16-108(c) of the Act, but also by fundamental principles under the Act and the Illinois and federal constitutions. **The Act also defines the scope of "delivery services" (220 ILCS 5/16-102) and requires the Commission to "promote the development of an effectively competitive electricity market that operates efficiently and is equitable to all consumers." (220 ILCS 5/16-101A(d).)** The Act long has mandated that rates adopted in a contested ratemaking proceeding must be just and reasonable. 220 ILCS 5/9-201(c). The "just and reasonable" mandate of Section 9-201(c) of the Act means that the rates must be just and reasonable to the utility and its stockholders as well as its customers. *Bus. & Prof. People for the Pub. Interest v. Ill. C. C.*, 146 Ill. 2d 175, 208 (1991). See also *Citizens Util. Bd. v. Ill. C. C.*, 166 Ill. 2d 111, 121 (1995) ("In setting rates, the Commission must determine that the rates accurately reflect the cost of service delivery and must allow the utility to recover costs prudently and reasonably incurred.") (citing 220 ILCS 5/1-102(a)(iv) (case involving riders for certain environmental expenses). Moreover, the full cost recovery principle incorporated in the Act is required by well-



established constitutional standards ensuring for utilities providing regulated services the opportunity to recover their capital costs and operating expenses, including a reasonable rate of return of and on their capital investments. *E.g.*, U.S. Const., amend. XIV; *Duquesne Light Co. v. Barasch*, 488 U.S. 299, 310 (1989); *Fed. Power Comm'n v. Hope Natural Gas Co.*, 320 U.S. 591, 605 (1944); *Bluefield Waterworks v. Pub. Service Comm'n*, 262 U.S. 679, 690 (1923); Ill. Const. Art. I, § 15.

## ISSUES

### VI. Cost of Service and Allocation Issues

#### B. Potentially Uncontested Issues

**REACT witness Mr. Fults set out the impact of ComEd's proposed increase in rates upon customers of varying sizes. (See REACT Initial Brief at 20.) For over-10 MW non-high voltage customers, the proposed increase impact ranges from 75.2%-84.3% (depending on load size) over rates from the ComEd's 2005 Rate Case, ICC Docket No. 05-0597; and for the over- 10 MW High Voltage customers, the impact ranges from 29.0%-46.7% (depending on load size) over rates from the ComEd's 2005 Rate Case. (See REACT Initial Brief at 20.) Expressed in dollars, rates for the Extra Large Load customer class would increase from over \$220,000 to over \$1.875 million per year per customer, depending on load size; for over-10 MW High Voltage customers, increases would range from nearly \$40,000 to over \$460,000 per customer per year, depending on load size -- all as increases over the rates from ComEd's 2005 Rate Case, ICC Docket No. 05-0597. (See REACT Initial Brief at 20.)**

**REACT witness Mr. Fults also showed, assuming no further increases to rate base, the future increases facing the over-10 MW customers if the Commission were to accept ComEd's ECOSSE as "mitigation" ends would impose massive costs on those customers. Extra Large Load customer class members would see their rates increase from between 160%-171% over rates from ComEd's 2005 Rate Case, ICC Docket No. 05-0597, which would mean a dollar increase ranging from just under \$500,000 to nearly \$4 million per year per customer, depending on customer size. (See REACT Initial Brief at 20.)**

#### C. Potentially Contested Issues

##### 1. Embedded Cost of Service Study Issues

##### b. Primary/Secondary Split

- (i) The Appropriate Methodology/Non-Compliance with What the Commission Required in its Final Order in Docket 08-0532

### **REACT's Position**

REACT posits that this Commission should compel ComEd to abide by the terms of the Final Order in the *Rate Design Investigation* proceeding by analyzing the assets that are used to serve the over-10 MW customer classes. The *Rate Design Investigation* Order required, in part, that ComEd develop: "function based definitions of service voltages for facilities other than the line transformers already addressed [and]



an analysis of which customer groups are served by which system service components.” (*Rate Design Investigation*, docket 08-0532, Final Order of April 21, 2010, at 40).

According REACT, while ComEd Exhibit 21.5 purportedly addressed both of those mandates, ComEd Exhibit 21.5 is nothing more than a first step toward rates reflecting cost causation for ComEd’s largest customers, rather than a full accomplishment of that goal. REACT asserts that ComEd itself acknowledges that it was capable of, and did, assign costs, including both direct and shared costs, to a customer class, as; the exemplar “primary class” was based upon actual usage of the facilities. (REACT Initial Brief at 24-25). ComEd conducted an investigation, based on several observation and sampling techniques, into distribution system assets serving primary service points. (See ComEd Ex. 21.5.) ComEd’s study was not without its flaws, REACT avers, and as other parties have pointed out, there is certainly room for improvement. Nevertheless, REACT witness Mr. Terhune testified that the concepts and basic methodology that ComEd used to create the primary/secondary study demonstrates that ComEd can undertake a similar (although improved) study of distribution system assets serving the over-10 MW customer classes. (REACT Initial Brief at 24-25, 38-41).

### **Analysis and Conclusions**

Nothing in the *Rate Design Investigation* Order required ComEd to do what the IIEC argues. The IIEC asserts that single-phase primary circuit costs and line transformer costs should be reallocated. However, the Commission did not address this issue in the *Rate Design Investigation* Order. Additionally, while the IIEC has presented its arguments in detail, it has not proffered any evidence to indicate that Staff is incorrect when opining that serving primary voltage customers on a circuit may require ComEd to incur the additional cost of a three-phase line, while a single-phase line could serve secondary loads. The IIEC has also not presented facts disputing Staff’s conclusion that the IIEC’s arguments on this issue are one-sided, as, serving primary voltage customers on a circuit may require ComEd to incur the cost of a three-phase line, while, a single-phase line might be sufficient to serve secondary loads. Because, at this time, these costs do not appear to be as neatly (and fairly) segregable as the IIEC asserts, we further conclude that, at this time, ComEd’s Primary/Secondary split analysis did not violate the *Rate Design Investigation* Order on this issue. We therefore conclude that, on an evidentiary basis, the IIEC’s arguments fail here.

However, as shall be explained below, we do concur with the IIEC’s and REACT’s arguments that ComEd, generally, has not complied with the Commission’s Order in the *Rate Design Investigation* Order in docket 08-0532. We further note that once ComEd finally complies with the requirements in that Order, further segmentation of ComEd’s costs may be necessary, depending upon the outcome. REACT’s argument and proposed remedy is further addressed elsewhere herein, in the Section entitled “Investigation of Assets used to Serve Extra Large Load Customers.”



- (i) Other Primary/Secondary Split issues
  - a) **4kv Asset Allocation**

### **REACT's Position**

REACT states that its witness Mr. Terhune testified in his pre-filed testimony why the use of NCP or CP allocators over-allocate costs to the over-10 MW customer classes. According to REACT, as of the filing date for Staff/ Intervenor Rate Design Rebuttal Testimony, ComEd had refused to provide evidence about the distribution system assets serving the Extra Large Load customer class to confirm Mr. Terhune's argument, citing REACT Ex. 6.0C at 5. However, in its response to data request ALJ-OTR 1, which was served during the evidentiary hearing, ComEd produced some information about the distribution system assets provided to 45 of the 57 Extra Large Load class customers under "Rider NS," which ComEd uses to recover the costs involved with certain distribution system assets that are not covered by Standard Service rate, Rate RDS. REACT avers that ComEd's response to data request ALJ-OTR 1 included information about the non-standard and standard service facilities used to serve those 45 Extra Large Load customers. It also included information about the capacity of all of the listed distribution system assets. (See REACT Cross Ex. 25; REACT Initial Brief at 28-29).

REACT argues that ComEd's proposed rates overcharge the Extra Large Load **and over-10 MW High Voltage** customer classes for some categories of system assets that this classes uses in a very small amount. (REACT Ex. 6.0C at **18-19**, 21-22). In support, it states that ComEd has acknowledged that it attempts to recover for all distribution system assets allocated to the Extra Large Load class that are in rate base, whether suitable for Standard Service or not, through Rate RDS. (REACT Ex. 6.3; ComEd Response to REACT Data Request 6.10). In fact, it continues, the costs that ComEd recovers through Rate RDS are associated with several types of distribution system assets which are below the capacity that is required to provide Standard Service to the Extra Large Load customer class. (REACT Ex. 6.3; ComEd Responses to REACT Data Requests 6.01, 6.06-07, 6.10, and 6.12; REACT Initial Brief at 36). **REACT noted that the same considerations for the Extra Large Load customer class apply to over-10 MW High Voltage customers as well. (See REACT Ex. 6.0C at 23-25, REACT 3.0C at 25.)**

Currently, REACT continues, ComEd allocates costs for those distribution system assets, including 12 kV single-/two-phase wires and 4 kV distribution system assets, based on coincident peak, non-coincident peak, or similar allocators applied to Uniform System of Accounts containing those distribution system assets that are "lumped" in with other types of distribution service assets. This is opposed to being based on class usage of distribution system assets. (Tr. 2134, 2146, 2164; 2184-85). According to REACT, the hard evidence in this proceeding undermines the fundamental premise of ComEd's position that applying an NCP or CP-related allocator is the best estimate of each class' usage of those systems. (REACT Initial Brief at 36).

REACT asserts that the information contained in ComEd's response to ALJ-OTR 1 (REACT Cross Ex. 25) demonstrates that ComEd's allocation of entire categories of distribution system assets is far in excess of the Extra Large Load customer class' use



of those non-Standard Service distribution system assets. This evidence, it continues, confirmed what REACT witness Mr. Terhune had predicted in his pre-filed testimony. (See, REACT Ex. 6.0C at 22-24). The Commission now has evidence, it continues, based on class-specific information provided by ComEd pursuant to a REACT data request, that ComEd is charging non-cost based rates to the ~~Extra Large Load customer class~~over-10 MW customer classes, because it is charging that class an amount that is far in excess of the proportion of this class' use of the single, two-phase and 4 kV systems. REACT concludes that ComEd's proposed cost allocation and resulting rates fail to comport with the reality of ComEd's service to the Extra Large Load customer class, in violation of the Public Utilities Act. (REACT Initial Brief at 37).

The new information, REACT continues, shows that only 0.7% of the capacity of the distribution system assets serving 45 out of 57 Extra Large Load customers relies on the 4 kV system. (See REACT Cross Ex. 25). According to REACT, this completely undermines ComEd's proposed ECOSSE-based methodology, which allocates these costs based on allocators related to class CP or NCP. REACT argues that therefore, this Commission should reject ComEd's proposed CP and NCP allocators, and instead assign no more than a system-average increase to the over-10 MW customer classes. (REACT Initial Brief at 29).

Mr. Terhune testified that 4 kV distribution system assets are not used to serve the Extra Large Load class at Standard Service. They would also generally be recovered using Rider NS for non-Standard Service. (See, REACT Exs. 3.0C at 17-21; 6.0 at 11-15, 19, and 27). REACT avers that ComEd's response to data request ALJ-OTR 1 corroborates and confirms Mr. Terhune's conclusion that a *de minimis* portion of the 4 kV system is used to serve the Extra Large Load class. (See REACT Cross Ex. 25; REACT Initial Brief at 29-30).

### **Analysis and Conclusions**

The issue here is whether to allocate the costs that are associated with 4kV lines to the Extra Large Load and Railroad classes. If these customers are paying for service that they do not use, (or use on a *de minimus* basis, in the case of the Extra Large Load customers) they contend that they should not be required to pay for that service. **The Commission agrees with that proposition, which is clear from the Act's language and is consistent with our repeated conclusion that in the context of rate design, costs causers should pay costs caused to the maximum extent reasonably possible.**

ComEd argues that the Railroad Class takes service at 4 kV. This is undoubtedly true, however, the evidence overwhelmingly establishes that it does so at a different rate than the Railroad Class rate. While Mr. Alongi testified that the Railroads take service at 4kV, he previously testified, in the *Investigation of Rate Design* docket, 08-0532, that they do not. (See, 08-0532, Tr. 563-64). Also, ComEd proffers its contracts with Metra and the CTA (the only members of the Railroad Class) as proof that these two customers take electricity at 4kV. However, a contract merely proves that a party is obligated to do something; it does not establish that Metra and the CTA take Railroad Class service at this level. The two are not the same.



We additionally note that even ComEd's witness Mr. Heintz testified that that he knew of no 4kV line that serves the Railroad Class. In fact, the evidence indicates that if the Railroad class *did* take service at 4kV, it would be impracticable and very costly, as all of the 4 kV equipment that would have to be installed inside and upstream of the CTA substations would have to be sized to handle at least three times the electric current that is presently supplied through the existing 12 kV equipment. (See, CTA Ex. 4.0 at 3). Based on the evidence provided, it is clear that the Railroad Class does not, and probably will never, take service at 4kV.

The question then becomes whether this fact justifies requiring ComEd to exclude 4kV costs in a future cost of service study. ComEd argues, essentially, that its customers, in general, must pay a percentage of the whole of its costs, as they have usage of the system as a whole. This contention is not without merit, as, at some point, exclusion of certain asset costs for a particular group of customers could result in a distortion of the price that all customers must pay to benefit from the use of a utility.

However, we need not decide this issue with respect to the Railroad Class. ComEd has had, for many decades, a unique relationship with the CTA and Metra. Proof of this unique relationship can be found in the fact that ComEd has contracts with these two entities. These contracts define the relationship between ComEd and these two entities. This is true because, necessarily, there is no point in entering into a contract, if a tariff governs all of the terms and conditions between the parties. Also, ComEd uses railroad-owned facilities to supply electricity to other customers. In fact, as is set forth elsewhere herein, in some instances, ComEd is dependent upon the railroads' facilities in order to supply electricity to other, non-railroad customers. The Railroad Class is truly a unique class, which has been segregated for decades. It should be segregated here.

We also note that, while ComEd maintains that it would be difficult and costly to segregate-out the 4 kV costs from the Railroad Class, this class has but two customers. And, the load-flow study, presented herein, should guide it. We therefore direct ComEd to work with Metra and the CTA, and Commission Staff if appropriate, to study, define, and delete from the costs assigned to the Railroad Class the costs that are associated with the 4 kV facilities that are not used to serve the Railroad Class. Pursuant to that effort, ComEd shall develop a new embedded cost of service study for the next rate case that excludes the costs that are associated with facilities below 12kV from the Railroad Class. This study shall be part of ComEd's initial rate case filing. Failure to comply with any portion of this directive could subject ComEd to the penalties provided in the Public Utilities Act for failure to comply with a Commission Order.

As is set forth in the issue below, we conclude that ComEd must perform an investigation of the ~~Extra Large Load customer~~over-10 MW customer classes. Included in that study shall be an assessment as to whether these customer use 4 KV service, and if so, to what extent, and also whether the NCP or CP allocator is an accurate allocator for these customers. We acknowledge that, in the past, the Commission has declined to require a study regarding this class of customers. However, that was before REACT presented an engineer who analyzed evidence that ComEd provided to him and concluded that these customers use very little single, two-



phase, or 4 KV service, if any. We note that Mr. Terhune analyzed documents regarding 45 of the total of 57 Extra Large Load customers.

c. Investigation of Assets Used To Serve Extra Large Load Customer Class

**REACT's Position**

REACT seeks a Commission order compelling ComEd to undertake a study of the distribution system assets serving the over-10 MW customer classes. According to REACT, as of the filing date for Staff/Intervenor Rate Design Rebuttal Testimony, ComEd refused to provide evidence about the distribution system assets serving the Extra Large Load customer class to confirm Mr. Terhune's argument, citing REACT Ex. 6.0C at 5. However, in its response to data request ALJ-OTR 1, which was served during the evidentiary hearing, ComEd produced some information about the distribution system assets regarding 45 of the 57 Extra Large Load class customers under "Rider NS," which ComEd uses to recover for certain distribution system assets that are not covered by Standard Service rates (Rate RDS). REACT asserts that ComEd's response to Data Request ALJ-OTR 1 include information about the capacity of all of the listed distribution system assets. (See, REACT Cross Ex. 25; REACT Initial Brief at 28-29).

REACT asks the Commission compel ComEd to undertake this task using ComEd's primary/secondary study as a template and starting-point for further investigation. REACT states that ComEd has both the capacity and institutional ability to conduct such a study, as is evinced by ComEd's primary/secondary split study, as well as other information that it has produced in the instant proceeding. Consistent with its rulings in the 2007 Rate Case and the *Special Investigation* Order, REACT concludes that the Commission should compel ComEd to compile the information that is necessary to enable the Commission to establish cost-based rates that reflect the distribution system assets that are used to provide service to the over-10 MW customer classes. (REACT Initial Brief at 31- 32).

REACT witness Mr. Terhune, a former ComEd engineer, testified that each customer class has minimum specifications, at which, the class normally receives Standard Service. As is described in ComEd's Tariff Sheets, the over-10 MW customer classes require, at minimum, nominal 4 kV, three-phase service. (See, REACT Ex. 3.0C at 12). REACT asserts that there are certain distribution system assets that are required to provide over-10 MW customer classes' minimum level of service. Also, it is ComEd's practice to use certain types or grades of distribution system assets to serve the classes. (REACT Exs. 3.0C at 15-17; 6.0C at 5, 7-8). Deviations from those minimums, REACT continues, virtually always occur pursuant to Rider NS facilities or facilities provided by ComEd for ComEd's convenience. (REACT Ex. 3.0C at 11).

REACT states that not all customers in the over-10 MW customer classes take Standard Service. According to REACT, most members of the over-10 MW customer classes also take delivery at voltages other than the nominal kV; they require use of the distribution system assets that would be unsuitable for Standard Service to such a customer. (REACT Initial Brief at 34). **Mr. Terhune noted that the same concepts**



**apply to both Extra Large Load customers and over-10 MW High Voltage customers. (REACT Ex. 6.0C at 19, 23-25; REACT Ex. 3.0C at 25).**

REACT maintains that the costs that are associated with many of the non-Standard Service distribution system assets are excluded from rate base because those costs are billed directly to individual customers under Rider NS. (See, REACT Ex. 3.0C at 21-22; REACT Cross Ex. 25 (documents reflecting “Rider NS build outs”)). Other non-Standard Service distribution system assets, REACT continues, are used by ComEd for its convenience because those distribution system assets’ use is less costly to ComEd than installing or connecting to Standard Service distribution system assets. (REACT Exs. 3.0C at 16-17; 6.0C at 6). REACT concludes that, although ComEd nominally has identified the Rider NS-funded distribution system assets serving the Extra Large Load customer class, it has not specifically identified other non-Standard Service distribution system assets that ComEd uses to provide service to these customers. (REACT Initial Brief at 34-35). In essence, REACT argues that the information it received (REACT cross Ex. 25) has led it to believe that some **over-10 MW customer**~~Extra Large Load~~ build-outs being billed pursuant to Rider NS are also included in Standard Service charges for these customers resulting in double-billing to these customers.

REACT acknowledges that it is possible that certain distribution system assets that are insufficient to provide Standard Service are not recovered under Rider NS. Also, according to REACT, ComEd has not estimated the impact of excluding those distribution system assets from the Extra Large Load class’ base rate. The possible existence of these distribution system assets, REACT posits, “counsels strongly” in favor of approving REACT’s request that the Commission compel ComEd to investigate the distribution system assets serving the ~~Extra Large Load~~**over-10 MW** customer classes. **REACT witness Mr. Terhune opined that the over-10 MW customer classes would have rates set on a “much more transparent basis” using the results of such a study. (REACT Ex. 3.0C at 26.)** REACT **further** notes that ComEd witness Mr. Alongi conceded that a properly-designed study can potentially pick up these distribution system assets that would otherwise not have been fairly allocated. (See Tr. 2208-2209). REACT continues that thus, by examining the required service for the over-10 MW customer classes, and subtracting the non-Standard Service assets that are paid for directly by those customers, it is possible to accurately identify the distribution assets that are used to serve the over-10 MW customer classes. (REACT Initial Brief at 35-36).

REACT agrees with ComEd that any ECOSS that ComEd submits is governed by Part 285 of the Commission’s Rules. However, it states, these studies are also governed by the Commission’s Orders, which have been highly-critical of ComEd’s cost of service studies, as applied to the over-10 MW customer classes. In support, it cites docket 07-0566, Final Order of September 10, 2008, at 212-13). REACT posits that Part 285 is a starting point, in that it sets forth the minimal requirements for the presentation of information that a utility must initially provide in a rate case. However, REACT continues, nothing in the language in Part 285, or Commission practice, suggests that compliance with Part 285 irrefutably answers the question of whether the rates that a utility has proposed should be approved. (REACT Reply Brief at 11-12).



REACT also acknowledges that its witness Mr. Terhune never prepared and ECOSS. It points out, however, that Mr. Terhune used his engineering experience and knowledge of ComEd's distribution system, which, ComEd never challenged, to explain the ways, in which, ComEd's ECOSS accounts for the actual engineering system. (*Id.* at 13). **Furthermore, REACT argues that Mr. Terhune's description of Rider NS and recovery of those was not substantively challenged. (REACT Initial Brief at 13.)**

REACT argues that ComEd has attempted to resurrect the "myth" that it now seeks individualized cost of service studies for the members of the Extra Large Load customer class. It states, however, that its proposed study would involve sampling and extrapolation, rather than a "nose count" of individual assets. It also cites the testimony of Mr. Terhune, who stated:

I made no such recommendation in my direct testimony and I make no such recommendation in this testimony. What I *do* recommend is that the Commission ensures that ComEd's rates are actually cost based. Determining if rates are cost based necessitates understanding what costs underlie the rates -- that is, the cost and related revenue requirements of the assets that serve a given rate *class*.

(REACT Ex. 6.0C at 33; emphasis in original). REACT advocates a study to find the cost basis that the Public Utilities Act requires, rather than simply excluding certain assets from being assigned to those classes altogether. REACT also notes that even in the present rate case, ComEd has adjusted allocators to reflect arguments about distribution system realities that it and other parties have identified. (See, e.g., ComEd Exs. 50.0 at 5; 74.0 at 2, discussing changes to NCP-SEC in Preferred Exemplar ECOSS; REACT Reply Brief at 13-15).

### **Analysis and Conclusions**

What REACT contends here is that ~~the Extra Large Load over-10 MW~~ customers have special facilities built for them by ComEd. ComEd bills these customers for these special facilities under Rider NS. Mr. Terhune's analysis of documents regarding 45 out of a total of 57 of the Extra Large Load customers revealed that it is possible that these special Rider NS facilities are also being billed under ~~another RiderRate RDS~~. It is also possible, as REACT acknowledges, that the converse is true, in that, other customers may be paying for **Required Service facilities that REACT said would typically--but not always--be part of** Rider NS build-outs. This is a unique situation that warrants further analysis and investigations.

REACT also makes it clear that what is sought involves sampling and class-wide allocation. This is contrary to ComEd's averment that preparing such a cost of service study would entail analyzing the costs on a customer-by-customer basis. While what is built-out and billed pursuant to Rider NS **or constructed for ComEd's convenience** may be somewhat unique amongst these **over-10 MW** customers, there should be some uniformity regarding the equipment provided and billing for these services. ComEd shall therefore undertake a study of the distribution assets used to serve the **Extra Large Load over-10 MW** customer classes. That study shall be part of any initial filing in its next rate case. **The study should look at both non-high voltage and high**



voltage service. We find that the similarities between the over-10 MW High Voltage customer class and Extra Large Load customer class lead to the conclusion that both classes face the same unique situation, and that it is practical and feasible to direct an investigation of both customer classes. Failure to comply with any portion of this directive could subject ComEd to the penalties provided in the Public Utilities Act for failure to comply with a Commission Order. ComEd shall consult with REACT and Staff regarding the development of its study. However, REACT seeks a study regarding all over 10 MW customers. What it has presented concerns only the Extra Large Load class of customers to the extent that the two are not the same; this study shall be limited to the Extra Large Load customer class.

d. NCP (Noncoincident Peak) vs. CP (Coincident Peak)<sup>1</sup>

**REACT's Position**

REACT opines that the ~~Commission should adopt an NCP allocator for ComEd's 12 kV and above primary substations and 12 kV and above, three-phase wire~~fundamental issue is making sure that allocations reflect a customer's actual usage of the delivery system. (REACT Reply Brief at 16). REACT states that ComEd's NCP-SEC allocator is designed to track use of certain secondary distribution system assets, specifically distribution lines. REACT witness Mr. Terhune testified that because the Extra Large Load customer class uses secondary distribution system assets in a negligible proportion, it would be inappropriate to allocate anything other than a reasonable estimate of the class' *de minimis* impact on the system. (REACT Ex. 6.0C at 17-18). Although ComEd's final ECOSS (surrebuttal versions) do not allocate any costs to the Extra Large Load customer class as part of NCP-SEC, ComEd's original preferred exemplar allocated the class a 0.79% allocation, a result that Mr. Terhune characterized as "absurd." As a result, REACT contends that the Commission should follow the approach set forth in ComEd's surrebuttal testimony, and use the NCP-SEC allocator for secondary lines. (REACT Initial Brief at 41-42).

i. Allocation of Illinois Electricity Distribution Tax

This issue is discussed in section VIII.C.3, entitled "Collection of Illinois Electricity Distribution Tax."

k. Customer Care Cost Allocation

**REACT's Position**

REACT witness Mr. Merola testified that ComEd's customer care costs "represent those costs ComEd incurs to provide customer service for its delivery and supply customers." (See, REACT Ex. 2.0 at 5). REACT concludes that customer care

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<sup>1</sup> The CP method measures the demands for each rate class at the time that demand by the system as a whole is at a peak. The NCP method uses peak demands for all rate classes without regard to how those peaks coincide with the peak demand for the system as a whole. (Staff Ex. 28.0 at 17). Thus, NCP is a type of "worst case scenario."



costs are the customer service-related costs that ComEd incurs in all of its dealings with its customers. (REACT Initial Brief at 8). REACT states that Section 16-108(c) of the Public Utilities Act requires that ComEd's delivery rates must be "cost based" such that, the costs charged to customers reflect use of the "facilities and services associated with such costs." In support, it cites 220 ILCS 5/16-108(c) and (d)). **REACT also cites provisions in the Act that limit the definition of "delivery" service and require the Commission to encourage electric market competition. (220 ILCS 5/16-101A(d) and 102.)** It concludes that the Act requires ComEd to demonstrate a clear link between the delivery services charges for a particular customer class and the costs associated with the facilities and services used to provide service to that particular customer class. **It also concludes that only certain types of costs can properly be considered "delivery" charges, which REACT notes do not include reference to supply charges. (REACT Initial Brief at 8-9, 51.)** REACT states that, beyond mandating delivery services rates that are based upon the actual facilities that are used to provide service, this statute requires consideration of customer's impacts.

REACT concludes that supply-related costs should not be included in ComEd's delivery service rates. Failure to accurately allocate customer care costs to ComEd's supply rates results in artificially-inflated delivery services rates, and inaccurate price signals that have anti-competitive effects. REACT avers that those inaccurate price signals advantage ComEd as a provider of supply service, and place alternative retail electric suppliers at a disadvantage, because alternative suppliers are forced to compete against an artificially low ComEd bundled supply rate. (REACT Ex. 5.0 at 6; REACT Initial Brief at 9-10). **REACT further contends that this violates the mandate to encourage electric competition in § 16-101A of the Act. (REACT Initial Brief at 52.)**

ComEd and REACT agree that customer care costs "are those costs [ComEd incurs] to provide customer service for its delivery and supply customers." (Tr. 1314). Also, Staff witness Mr. Rukosuev similarly testified that "Customer care costs are incurred to support both the distribution and supply functions and the issue here is how these costs are to be allocated between the two." (Staff Ex. 12.0 at 24-25). He also agreed that Customer Care Costs "support both the distribution and the supply functions of ComEd." (Tr. 1183). REACT concludes that therefore, the record evidence shows that customer care costs relate to both the delivery and supply functions. (REACT Reply Brief at 19-20).

According to REACT, the Switching Study approach has been historically questioned by the Commission is theoretically unpersuasive. REACT further opines that this study relies on speculative customer switching scenarios. REACT cites the *Rate Design Investigation* Proceeding, where the Commission found that REACT "raise[d] many valid points and when the two methodologies are compared, questions arise." (docket 08-0532, Final Order of April 21, 2010, at 68). The Commission further stated:

REACT, however, points to functions that clearly support supply, yet no costs are allocated to supply for these functions in ComEd's [analysis] . . . REACT informs us that it was unable to get this information from ComEd. Similarly, REACT raises a valid argument that some portions of the calls received by the Customer Call Center should be allocated to supply.



After concluding that “REACT’s methodology is consistent with an embedded cost methodology”, the Commission “directed [ComEd] to perform an embedded cost study for [Customer Care] costs and present it for consideration and discussion in [ComEd’s] next rate proceeding.” (*Id.*; REACT Initial Brief at 49-50). **REACT noted that the 1% switching scenario in the Switching Study -- the only scenario that both Staff and ComEd have not acknowledged is speculative -- is an allocation based on 2009 test year costs. (ComEd Ex. 19.0R at 7-8; Staff Reply Brief at 68-69; ComEd Initial Brief at 123.) REACT argues that if ComEd and Staff concede that the 1% switching scenario (constructed with an embedded approach, even if a flawed one) is the only non-speculative component of the Switching Study, it makes little sense to add speculative 10% and 100% switching scenarios on top of it, rather than just relying on an embedded approach.**

REACT contends that the Switching Study is inconsistent with the Act and the Commission’s guidance in the *Rate Design Investigation* Proceeding. According to REACT, the Switching Study purports to allocate current costs based on ComEd’s “guess” about what costs will be avoided in the future based on “unknown” customer switching scenarios, rather than whether the costs are caused by supply or delivery functions today. (REACT Ex. 2.0 at 15-16, 17). (REACT Initial Brief at 51). **REACT clarified that although the 1% switching scenario is known (and that it should, but does not, mirror the Allocation Study), ComEd’s attempt to determine the costs at 10% and 100% switching must be guesses when no party identified when those milestones would occur (if ever) and what Customer Care Costs would look like at that point. (REACT Reply Brief at 20-22). REACT noted that, as a matter of simple mathematics, the accuracy of the 10% and 100% scenarios is critical to the accuracy of the entire Switching Study, regardless of how accurate the 1% scenario is. (REACT Reply Brief at 20-21).**

REACT argues that whether ComEd’s costs change or stay the same in the event of additional switching has nothing to do with whether the costs were *caused* by the delivery function, that is, whether those costs fit within the definition of “delivery services” in Section 16-102 of the Act. It also states that although it arguably may reflect cost-causation at some point in the future, the avoided cost approach does not reflect whether ComEd incurred certain costs in the present, due to **costs incurred to support its current supply or delivery functions.** (REACT Ex. 5.0 at 13, 15, 16). **For example, REACT witness Mr. Merola opined that ComEd incurred (and continues to incur) supply-related costs related to billing. (REACT Ex. 5.0 at 23:408-418.) Finally,** REACT points out that ComEd’s Allocation Study allocates over 13 times more costs to the supply function than ComEd’s Switching Study. (See, ComEd Exs. 19.1, 19.2).

According to REACT, the Switching Study is highly speculative. It avers that ComEd has admitted the speculative nature of its Switching Study both on cross examination and in testimony. In support, REACT cites Tr. 1334-1337; Tr. 1190-1191. It concludes that both ComEd and Staff ignore that, in order to construct the Switching Study avoided cost numbers, ComEd “had to come up with” a total cost reflecting current circumstances, heavily rely upon the estimated costs at 10% and 100%



switching for comparison. (REACT Initial Brief at 52). REACT also cites ComEd witness Mr. Donovan, who stated:

ComEd agrees that these impacts are only **potential** as opposed to actual. They are not based on current costs, and the actual future O&M implementation costs are likely to be different from the figures that ComEd utilized in the Switching Study.

(ComEd Ex. 48.0 at 5; emphasis in original). And, REACT continues, Staff witness Mr. Rukosuev also conceded on cross-examination that the cost levels at 10% and 100% switching were “speculative future scenario[s].” (See, Tr. 1190). (REACT Initial Brief at 53-54).

### **Analysis and Conclusions**

We conclude, based upon the evidence presented, that ~~ComEd analyzed the correct pool of costs in the “Switching Study”~~ Customer Care Costs should be allocated based on the Allocation Study, as modified by REACT. We therefore reject REACT’s proposed adjustments to the Allocation Study. We acknowledge that Under the Switching Study approach, Customer Care Costs would not be allocated between the delivery services and the supply functions in a manner consistent with the Act and the cost-causation principles that we have consistently endorsed; no other costs in this proceeding are allocated using an avoided cost Switching Study approach. The Allocation Study-approach is consistent with the embedded cost methodology that ComEd uses in virtually every other aspect of its rate design, and it the best current approach to allocating Customer Care Costs. In contract, ComEd’s figures in the Switching Study regarding 10% or 100% of its customers switching suppliers are ~~hypothetical~~ unacceptably hypothetical (a point that was admitted to by both ComEd and Commission Staff), and there is no evidence here indicating that ComEd’s customer care costs would ~~diminish to any significant degree, if comport with ComEd’s estimates for~~ 10% or a greater amount of its supply customers switched to retail electric suppliers when ComEd cannot even estimate when this even will occur or what its Customer Care Costs will look like at that point. We note that some of these functions, such as metering, that will remain constant, regardless of the number of customers that are served by alternative suppliers have been assigned 100% to the delivery function under the Allocation Study approach. We note that both ComEd witness Mr. Donovan and REACT witness Mr. Merola allocated 100% of metering costs to delivery in their respective embedded studies. Other functions, such as billing, have clear capital costs components that relate to supply, and only in the Allocation Study are those components allocated to supply. Additionally, ComEd is the default provider. It must stand “ready willing and able,” so to speak, to serve customers that have switched providers, but this does not justify ComEd artificially inflating its delivery services rates under the circumstances presented in this case. A properly conducted Allocation Study, based on an embedded cost of service methodology that is consistent with the methodology used to set ComEd rates can be adjusted from case-to-case based upon the circumstances present within the particular test year.



~~We acknowledge that, in the Rate Design Investigation Order, a traditional embedded cost of service study was required because the Switching Study yielded results that defied reality. However, such a study does not recognize that many of the customer care costs, such as metering, customer service calls related to power outages, etc. will be incurred by ComEd, irrespective of whether a customer takes electricity from an alternative supplier. Now that ComEd has finally put together a study using embedded cost methodology, we find a much more reasonable allocation between supply and delivery to be in the range of a 20% allocation to supply, in contrast to the under 1% allocation to supply results that we previously have strongly criticized. Having said that, we want to emphasize that the reallocation that we order here will not affect ComEd's bottom line, nor will it unfairly impose any costs of any customer or class. Rather, this reallocation represents a continuation of the Commission's efforts to assign cost to cost causers. This is a fundamentally fair approach, is consistent with the Act, and is consistent with pro-competitive policies.~~

~~We also disagree with REACT's averment that the Switching Study is "guesswork." In fact, the 1% scenario therein is based on fact. The 10% and 100% scenarios therein are projections based upon the 1% scenario. No party has presented evidence indicating that these projections are scientifically invalid.~~

~~However, w~~ On that last point, we additionally note that the alternative electric supplier market is just beginning to blossom. It is possible that, in the future, ComEd's customer care costs could differ from what they are now, in terms of the amounts involved and the types of services involved, as, items like IT interfacing with alternative suppliers becomes more sophisticated. Also, pursuant to ComEd's PORCB program, consolidated billing is now an option (consolidated between the alternative supplier and ComEd). As a result, rather than basing today's allocation on projections of future costs, we adopt a more traditional, embedded, approach that accounts for today's costs today, and will reallocate costs based on contemporary functionalization the next time ComEd brings a Rate Case. To the extent that Customer Care Costs have changed at that time, any embedded study will change with ComEd's new operational realities. ~~Therefore, this issue may need to be explored some time in the future.~~

- (i) Allocation Study vs. Switching Study

This issue is discussed in the issue above.

- (ii) Direct O&M Costs vs. Total Costs in the **Switching Study**Selected Study

## Analysis and Conclusions

At the outset, we disagree with ComEd's assertion that analyzing the total costs, instead of merely viewing the direct O&M costs, is not meaningful because, according to ComEd, analyzing the actual costs has no real impact upon the results of the Switching



Study. The impact that including the total costs here would have, at a minimum, would be to reflect reality, instead of some artificial group of costs that ComEd arbitrarily chose. Additionally, ComEd's decision in this regard ignores the mandate set forth by this Commission in the *Rate Design Investigation Order*.

We also note that Staff and REACT correctly point out that the numerical difference between direct O&M costs and total costs indicates that the difference could exceed ~~one~~ **144** million dollars, which is not insubstantial. ComEd's revised figures, based upon Mr. Merola's analysis, shall be the subject of a post-record data request.

(iii) Adjustment of Allocation Study Allocators

**REACT's Position**

**REACT explains that, if the Commission properly adopts the Allocation Study, the Commission should use the adjustments proposed by REACT witness Mr. Merola. (See REACT Initial Brief at 56-59; REACT Reply Brief at 25-27.) REACT also notes that only Mr. Merola's allocators are appropriate if the Commission agrees that all Customer Care Costs should be evaluated, because ComEd's proposed allocators were developed to assign only direct O&M expenses. (See REACT Initial Brief at 58.) REACT argues that Mr. Merola's adjustments to the Bill Calculation, System Billing, and IT-related Allocators best reflect cost causation. (See REACT Ex. 5.0 at 19:397-27:557.) REACT shows that Mr. Merola's adjustments are reflective of cost causation, reasonable, and in compliance with the Act and the Commission's Orders. (See REACT Initial Brief at 57-58; REACT Reply Brief at 25-27.) REACT explains that Mr. Merola's adjustments fell into two categories: adjustments to ameliorate strange incongruities (such as a different allocator for sending and opening mail), or where ComEd's proposed allocator plainly does not reflect cost causation. (See REACT Initial Brief at 58; REACT Reply Brief at 25-26.) REACT urges the Commission to reject ComEd and Staff's comparisons to what they characterize as "across-the-board" increases in past cases; REACT argues that Mr. Merola supported his adjustments -- even when based on estimates -- in his pre-filed testimony. (See REACT Initial Brief at 58; REACT Reply Brief at 25-26.) REACT argues that Mr. Merola provided sufficient support his allocator adjustments, including where he decided that the evidence (or lack thereof) showed that a 50-50 split is the most reasonable allocation. (See REACT Initial Brief at 56-59.) REACT contrasts this approach with the allocations suggested by REACT in previous cases, which ComEd and Staff have termed as across-the-board allocations. (See REACT Reply Brief at 26; ComEd Initial Brief at 127-128; Staff Initial Brief at 114-116.) Finally, REACT emphasizes that Mr. Merola's proposed allocation is less than three percentage points higher than ComEd itself found in its Allocation Study, 20.9% to 18%. (See REACT Reply Brief at 25.)**

~~This issue is now moot as, in the previous two sections above, this Commission has made it clear that it is not adopting the Allocation Study.~~



## Analysis and Conclusions

Having adopted the basic embedded methodology of the Allocation Study and the total costs to be allocated, we must decide now whether the Allocation Study itself accurately reflects cost causation. We note that, compared to the relatively wide divergence between ComEd and REACT in past cases on this point, there now is a relatively minimal percentage point difference between ComEd and REACT in terms of that impact of the allocators that each party advocates. Both parties and Staff make plausible points regarding their preferred allocators. In the end, however, the Commission finds Mr. Merola's adjustments to the Bill Calculation, System Billing, and IT-related Allocators well reasoned and based upon thorough and more persuasive reasoning. Although Mr. Merola does rely on assumptions -- such as that costs were originally caused by supply and delivery in equal amounts for certain costs or components of costs -- he explains his adjustments in context, and many of his assumptions results in relatively "conservative" allocations -- and such assumptions are inherent in embedded cost studies; there is no evidence of over-reaching. We also note that Mr. Merola's analysis presents a more nuanced and accurate picture of cost causation, which removes any concern expressed by ComEd in previous cases about what ComEd characterized as REACT's proposed "across-the-board" allocations.

Accordingly, ComEd's Customer Care shall be based upon the Allocation Study incorporating the allocation adjustments advocated by REACT.

## VII. Rate Design

### A. Overview

#### REACT's Position

REACT argues that ComEd's proposed rate design for the over-10 MW customer classes is based on an improper allocation of distribution system asset costs reflected in ComEd's ECOSS that those classes rarely, if ever, use. (See REACT Initial Brief at 64-65.) REACT argues that the Commission require ComEd to further investigate the distribution system assets serving ComEd's largest customers and charge those customers their fair share of those costs -- no more and no less. (See REACT Initial Brief at 65.) REACT argues that unless and until ComEd takes this step and charges truly cost-based rates to its largest customers, the Commission should prevent ComEd from raising the rates of its largest customers beyond the system average. (See REACT Initial Brief at 65.)

REACT also argues that the Commission should prevent ComEd from altering the way it collects IEDT and provide yearly oversight of ComEd's Distribution Loss Factors ("DLFs"). (See REACT Initial Brief at 65.) REACT argues that the Commission should preserve the status quo for IEDT collection. (See REACT Initial Brief at 65; REACT Reply Brief at 19.) REACT argues that the Commission should, in light of the massive increase between the DLFs approved in the 2005 Rate Case and the DLFs proposed at the beginning of this case, the Commission must provide more oversight over DLFs. (See REACT Initial Brief at



**65.) Although REACT supports ComEd's ultimate proposed DLFs, REACT argues that additional Commission oversight will help prevent future massive increases. (See REACT Initial Brief at 65.)**

- C. Potentially Contested Issues
  - 2. Non-Residential
    - a. Movement Toward ECOSS Rates
      - (i) Extra Large Load, High Voltage Customer Classes

**Extra-Large Load and High Voltage Customers**

**REACT's Position**

REACT posits that its witnesses Mr. Fults and Mr. Terhune testified that the Commission should reject any increase in rates based on ComEd's embedded cost of service study for the Extra Large Load customer class **beyond the system average**, unless and until ComEd provides sufficient information and/or a study that verifiably evaluates the assets used to serve the Extra Large Load class. This study is a necessary prerequisite, REACT states, because ComEd's rates must be cost-based, meaning they must correlate to "the facilities and services associated with such costs." (220 ILCS 5/16-108(c)). In the last four proceedings in which ComEd's embedded cost of service studies have been examined, including three rate cases and a special investigation into its rate design, ComEd has faced strong and consistent criticism showing that its embedded cost of service study does not accurately establish cost-based rates for its largest customers. REACT argues that it makes no sense to move further toward cost of service studies that this Commission has consistently criticized **as not reflecting actual cost causation**. (REACT Exs. 1.0C at 12-20, 22, 3.0C at 8, 4.0 at 11-22; 6.0 at 30-33; REACT Memo at 12; REACT Initial Brief at 66).

**REACT witness Mr. Fults testified that, even with ComEd's claimed moderation of rate implementation, there is an extremely high-dollar impact on the over-10 MW customers (REACT Ex. 4.0 at 2- 6:10; see also REACT Ex. 1.0C, at 22-25 (discussing rate impact before ComEd adjustments in rebuttal testimony). REACT argues that this is contrary to the Public Utilities Act's requirement that the Commission "shall take into account customer impacts when establishing" delivery services charges. In support, REACT cites 220 ILCS 16-108(d). (REACT Memo at 10-11).**

REACT asserts that, based on its analysis, ComEd charges the over 10MW customer classes for distribution system assets that these customers either do not use, or, use in a manner that is far less than what was assumed in ComEd's ECOSS. (REACT Initial Brief at 68). Additionally, according to REACT witness Mr. Terhune, and also the IIEC's witness Mr. Stowe, the Extra Large Load customer class used a very low level of secondary assets. (See, REACT Initial Brief at 69).

**Analysis and Conclusions**

We decline to implement a rate design that moves these two classes more than what ComEd has proposed to do. While we appreciate that Staff's proposal moves these classes closer to actual cost, Staff's proposal is not consistent with the principle of



gradualism, which avoids rate shock. We also acknowledge that ComEd's rate design focuses on the DFC charge for these classes, which is "putting the cart before the horse," as the rates design here determined the revenue allocation, instead of having the cost of service determine the revenue allocation. However, we note that it appears that this was the case in ComEd's last rate case, where the model was created to have 25% increases toward cost of service for these two classes. We decline to alter that model at this time. We therefore decline to adopt Staff's proposal. We also decline to impose the caps that the ILEC proffers for rate increases. If limits are placed on some rate classes, other rate classes would be "making up the difference." We therefore approve ComEd's rate design.

In so ruling, we acknowledge, as REACT points out, that this movement toward ECOSSE-based rates is, in fact, based upon faulty ECOSSE studies. **However Whatever improvements the study approved herein is greatly improved makes over what has been previously submitted in other dockets, it still does not address overallocation of assets that are used at a *de minimis* level and largely already paid for under Rider NS.** And, rulings made herein **have will improved its accuracy once implemented in ComEd's next Rate Case. While the ECOSSE approved here still needs further refinement, which shall take place in a future rate case, it is accurate enough to move, gradually, toward cost-based rates for these two classes. We further note that the over-10 MW High Voltage customer class appears to face an increase of below system average, leading us to mitigate only the non-High Voltage Extra Large Load customer class. Therefore, we limit the rate increase to the Extra Large Load customer class to the system average.**

### The Revenue Shortfall

#### REACT's Position

~~REACT witness Mr. Fults testified that, even with ComEd's "claimed" moderation of rate implementation, there is an extremely high-dollar impact on the over-10 MW customers (REACT Ex. 4.0 at 2-6:10; see also REACT Ex. 1.0C, at 22-25 (discussing rate impact before ComEd adjustments in rebuttal testimony). REACT argues that this is contrary to the Public Utilities Act's requirement that the Commission "shall take into account customer impacts when establishing" delivery services charges. In support, REACT cites 220 ILCS 16-108(d). (REACT Memo at 10-11).~~

#### Analysis and Conclusions

As we understand Staff's proposal, greater, but proportionate, recovery of the shortfall would come from four classes (the Small Load, Medium Load, Large Load and Very Large Load classes) where the rates proposed by ComEd already exceed the cost of providing service by 2.2%. This proposal minimally affects only four classes and it also allows ComEd to fully-recover costs. This proposal also applies the principle of gradualism that Kroger, the Commercial Group and others advocate. Staff's proposal will therefore be adopted.



### 3. Collection of Illinois Electricity Distribution Tax

#### REACT

REACT argues that ComEd has not made a sufficient showing to justify changing its method of collecting IEDT. (See REACT Initial Brief at 70; REACT Reply Brief at 18-19.) REACT posits that IIEC's allocation and collection approach is the most reasonable, and should be adopted by the Commission. (REACT Reply Brief at 18-19).

#### **Commission Analysis and Conclusion**

In the Ameren rate cases, the Commission reviewed the legislative history of the Public Utilities Revenue Act ("PURA") and determined that the General Assembly intended "to replace the invested capital/plant in service tax with a kWh tax in response to the changing nature of the Illinois electric utility industry." Ameren Order at 243. In that Order, we found that The legislature was anticipating that vertically integrated utilities like ComEd and Ameren might shed their generation assets (a significant part of plant in service), an event that has, in fact, occurred. Although we do not normally reverse our rulings on similar issues and do not take such changes lightly, IIEC and REACT provide convincing arguments to make an exception in this case.

~~We agree with Staff that since~~ We agree with IIEC and REACT that, while on the surface the IEDT ~~is~~appears to be related to usage, it is in fact overwhelmingly (over 90%) related to plant in service. Thus, cost causation principles ~~would argue for provide no justification for ComEd to move from the status quo and begin recovering~~ingy through a per-kWh charge from all customers. ~~The proposed change would have no impact upon residential, watt-hour and lighting customers because costs associated with the Illinois Electricity Distribution Tax are already recovered through per kWh DFCs for these customers.~~ Although superficially ~~This is not a tax imposed on customers but rather is directly imposed on ComEd, we have been convinced that the actual driver of the cost of that tax on ComEd is from plant in service.~~ Therefore, Section 70 ILCS 3605 does not apply to the IEDT tax imposed on ComEd and we find that the CTA is responsible for this tax.

~~In light of our prior treatment of the Illinois Electricity Distribution Tax in the Ameren Order, the Commission adopts ComEd's proposal to modify its rate design to provide a separate volumetric charge for the recovery of the Illinois Electricity Distribution Tax and uncollectible costs associated with the application of the tax for all of the reasons stated herein.~~

Thus, in light of the lack of convincing evidence of the need to change to a per kWh collection structure and IIEC and REACT's convincing arguments in favor of maintaining the status quo, we find that ComEd has not met its burden to justify the change and reject its proposal.

### 4. Distribution Loss Factors

#### **REACT's Position**

Although REACT supports ComEd's final proposed Distribution Loss Factors ("DLFs") for purposes of setting the rates in this proceeding, in REACT's opinion, the



Commission also should require ComEd to update its Distribution Loss Study annually. It states that in essence, DLFs operate as a tax on purchased electricity, requiring each end-user to purchase an additional quantity of electricity in proportion to the DLF, in order to account for electricity that is lost within the system. For very high-volume purchasers of electricity, what appear to be small changes in the DLFs, such as ComEd's initial proposed 4% increase, can have a substantial impact upon such a customer's bill; it is therefore critical, according to REACT, for high-volume users, such as the customer members of REACT, that the DLFs are not artificially high. (REACT Initial Brief at 70-71).

REACT states that the Commission should be concerned by the huge swing in ComEd's DLFs. This swing, it avers, demonstrates the need for additional oversight of the calculation of distribution losses. To remedy this situation, REACT requests that the Commission order ComEd to update its Distribution Loss Study to the Commission every year. Although REACT expects the DLFs to fluctuate from year to year, the massive increases from the 2005 ComEd Rate Case to the DLFs that were initially proposed in the present case (15.78% for Extra Large Load, and 72.59% for over-10 MW High Voltage) represent an enormous change that probably would not have even been proposed, if there were proper annual oversight of the inputs to this charge. REACT Initial Brief at 71). **REACT also points out that both Staff and ComEd concede that ComEd would benefit from additional oversight on DLFs, and that ComEd's position that DLFs would change little year to year is exactly the positive result anticipated by REACT. (REACT Reply Brief at 33). Finally, REACT argues that putting together a Distribution Loss Study is not the large burden on ComEd that it claimed, but has large benefits in terms of consistency. (REACT Ex. 4.0 at 20).**

### Analysis and Conclusions

We ~~decline to~~ adopt REACT's proposalargument. ~~It appears that the "massive spike" in the DLF for these large users of electricity from its 2005 rate case and 2007 rate case was due to the fact that the evidence presented by ComEd now is much more accurate than when it was when originally proposed in earlier cases. Therefore, u~~Updating ComEd's Distribution Loss Study on an annual basis is ~~an onus that does not appear to be~~ justified by the low amount of effort required by ComEd, and the potential to minimize or eliminate what historically has been a hotly contested issue in ComEd's rate cases. The better approach is the one that thisThis finding in no way replaces the approach that this Commission has taken, which is, to urge parties to present accurate and complete evidence in support of their positions in rate case litigation. ~~We do so here.~~

We **also** disagree with the Commercial Group's contention that the evidence proffered here regarding this issue is mere conjecture. As Staff has pointed out, the correct values for the Medium and the Large Load customers is an approximation, which was based upon the engineering judgment of the persons who conducted the study. An approximation is not the "guesswork" that the Commercial Group suggests. Also, typically, the Extra Large Load and Very Large Load customers take service at a non-transformed voltage level; therefore, the lines that supply them, usually, would not



be included as a SEC/SERVICE element. The Commercial Group has not established that the values attributed to these two classes is incorrect. Further, the cost of service for a particular class is not indicative of distribution losses. Therefore, the cost of service study prepared by Mr. Heintz does not aid the Commercial Group. However, to eliminate future confusions, ComEd shall segregate the SEC and SERVICE elements in any future rate case in its initial filing.

We also decline to adopt the values that the Commercial Group proffers, as it presents no evidence to support these values. In fact, the Commercial Group acknowledges in its argument that the values it proffers are ones that it would accept; it does not state that these values reflect reality.

We additionally agree with Staff's contention that ComEd should not be allowed to, in addition to updating its transmission loss information, file an updated cost of service study, and provide many other items. All of this evidence should be subject to the due process mechanisms that occur in litigation, such as pleadings, discovery and cross-examination.

However, requiring ComEd to update its Distribution Loss Study with information from an updated Transmission Loss Study is uncontested and it does not appear to be a recommendation that needs the mechanisms involved in litigation. We therefore adopt Staff's recommendation in this regard. ComEd shall re-file its tariffs with this updated information by the end of 2011. Additionally, so it is clear, the Distribution Loss Studies in ComEd Exs. 67.1 Rev. and 67.2 are approved. **With its compliance filing in this proceeding, and no later than March 1 of every subsequent year, ComEd shall file an updated Distribution Loss Study, consistent with the yearly review we have delineated above.**

F. Other

#### **REACT's Position**

**REACT first urges the Commission to dismiss the present matter without prejudice. REACT notes that it appreciates that the Commission has decided not to dismiss the instant proceeding without prejudice, but continues to argue that the matter should be dismissed. (REACT Initial Brief at 10, 61).**

**In the alternative, REACT urges the Commission to set out clear expectations for non-compliance with Commission Orders. REACT further requests that the Commission provide clear and consistent guidance as to the expectations and potential discipline for non-compliance. REACT notes that several sections of the Proposed Order did, in fact, make reference to discipline under the Act for failure to comply with Commission Orders, but not all sections or mandates had the same language. (Proposed Order at 34-35, 169, 178).**

#### **Analysis and Conclusions**

**[PREFERRED LANGUAGE] At the time that the Motions to Dismiss this proceeding were filed by the Attorney General, REACT, and Dominion, as well as at the time that REACT filed its Petition for Interlocutory Review and Petition for Rehearing with respect to its Motion to Dismiss, it was not yet clear the extent to which ComEd had failed to comply with the *Rate Design Investigation* Order. We**



did not anticipate that ComEd would produce so many “tainted” studies or that it would produce multiple iterations of two ECOSs that simply did not comply with the *Rate Design Investigation* Order. The seriousness of ComEd’s non-compliance cannot be overlooked and requires a serious and concrete response from the Commission. Accordingly, upon consideration of ComEd’s non-compliance with the with *Rate Design Investigation* Order, we hereby reconsider our decision on the previously-filed Motions to Dismiss, and now grant those motions such that this proceeding is dismissed without prejudice. ComEd is free to refile at any time, provided its submissions comply with the *Rate Design Investigation* Order and all other applicable Orders and regulations.

[ALTERNATIVE LANGUAGE] Non-compliance by ComEd will not be tolerated. There should be no confusion -- any future non-compliance by ComEd of a Commission direction or requirement will result in sanction. Failure to comply with the Commission’s orders will result in the Commission imposing penalties available under the Act, and, to the extent the Commission deems it appropriate, dismissal of any noncompliant future rate increase request without prejudice.

#### XI. FINDINGS AND ORDERING PARAGRAPHS

[PREFERRED LANGUAGE] The Commission finds that ComEd has failed to comply with the Commission’s prior Orders as set forth herein. Therefore, the Commission dismisses this action without prejudice. ComEd is free to refile at any time, provided its filings comply with our previous Orders.

[ALTERNATIVE LANGUAGE] The Commission, having considered the entire record herein and being fully advised in the premises, is of the opinion and finds that:

- (1) Commonwealth Edison Company is an Illinois corporation engaged in the transmission, distribution, and sale of electricity to the public in Illinois and is a public utility as defined in Section 3-105 of the Public Utilities Act;
- (2) the Commission has jurisdiction over the parties and the subject matter herein;
- (3) the recitals of fact and conclusions of law reached in the prefatory portion of this Order are supported by the evidence of record and are hereby adopted as findings of fact and conclusions of law; the Appendix attached hereto provides supporting calculations;
- (4) the test year for the determination of the rates herein found to be just and reasonable should be the 12 months ending December 31, 2009; such test year is appropriate for purposes of this proceeding;
- (5) for the test year ending December 31, 2009 and for purposes of this proceeding, as adjusted, the Company’s rate base is \$6,629,441,000;
- (6) a just and reasonable return which ComEd should be allowed to earn on its net original cost rate base is 8.51%; this rate of return incorporates a return on common equity of 10.50% and on long-term debt of 6.52%;



- (7) the rate of return set forth in Finding (6) results in base rate operating revenues of \$2,213,408,000 and net annual operating income of \$564,164,000 based on the test year approved herein;
- (8) the Commission, based on ComEd's original cost of plant in service as of December 31, 2009, before adjustments, of \$14,758,892,000, and reflecting the Commission's determination adjusting that figure, approves \$14,423,422,000 as the original cost of plant as of said date;
- (9) ComEd's rates which are presently in effect are insufficient to generate the operating income necessary to permit ComEd the opportunity to earn a fair and reasonable return on net original cost rate base; these rates should be permanently canceled and annulled;
- (10) the specific rates proposed by ComEd in its initial filing do not reflect various determinations made in this Order regarding revenue requirement, cost of service allocations, and rate design; ComEd's proposed rates should be permanently canceled and annulled consistent with the findings herein;
- (11) ComEd should be authorized to place into effect tariff sheets designed to produce annual base rate revenues of \$2,213,408,000 which represent an increase of \$166,088,000 or 8.11%; such revenues will provide ComEd with an opportunity to earn the rate of return set forth in Finding (7) above; based on the record in this proceeding, this return is just and reasonable;
- (12) the determinations regarding cost of service, rate design, **future studies**, and terms and conditions of service contained in the prefatory portion of this Order are reasonable for purposes of this proceeding **and are adopted as findings in this Order applicable to this proceeding and any future filings or proceedings as set forth in the prefatory portion of this Order**; the tariffs filed by ComEd should incorporate the rates, rate design, and terms and conditions set forth and referred to herein;
- (13) new tariff sheets authorized to be filed by this Order should reflect an effective date not less than thirty (30) days after the date of filing, with the tariff sheets to be reviewed by the Rates Department of the Commission, and corrected, if necessary, within that time period.

IT IS THEREFORE ORDERED by the Illinois Commerce Commission that the tariff sheets presently in effect rendered by Commonwealth Edison Company are hereby permanently canceled and annulled, effective at such time as the new tariff sheets approved herein become effective by virtue of this Order.

IT IS FURTHER ORDERED that the proposed tariffs seeking a general rate increase, filed by Commonwealth Edison Company on June 30, 2010, are permanently canceled and annulled.

IT IS FURTHER ORDERED that Commonwealth Edison Company is authorized to file new tariff sheets with supporting workpapers in accordance with Findings (11), (12), and (13) of this Order, applicable to service furnished on and after the effective date of said tariff sheets.



IT IS FURTHER ORDERED that Commonwealth Edison Company's embedded cost of service study, **as modified by the embedded cost of service study presented by the Illinois Industrial Energy Consumers' as described above,** is accepted as a basis for setting rates in this proceeding.

**IT IS FURTHER ORDERED that Commonwealth Edison Company shall comply with all of the determinations regarding cost of service, rate design, future studies, and terms and conditions of service contained in the prefatory portion of this Order.**

IT IS FURTHER ORDERED that any motions, petitions, objections, and other matters in this proceeding which remain outstanding are hereby denied.

IT IS FURTHER ORDERED that, subject to the provisions of Section 10-113 of the Public Utilities Act and 83 Ill. Adm. Code 200.880, this Order is final; it is not subject to the Administrative Review Law.